IN THE HIGH COURT OF JUDICATURE OF BOMBAY

APPELLATE SIDE

WRIT PETITION NO. 932 of 2000

Maruti Vithu Patil .. Petitioner

versus

The State of Maharashtra & ors... Respondents

...

Mr.V.S. Kapse for the petitioner.

Ms.S.S. Bhende, AGP for respondent nos.1 to 3.

CORAM : S.B. MHASE AND
D.G. KARNIK, JJ
DATED : 31st January 2006.

P.C.:

1. By this petition, the petitioners challenge the acquisition of their land to the extent of 82 Ares of Gat No. 1 of Village Ite.

2. The petitioner’s lands were acquired for

Resettlement of Project Affected Persons. An award was declared on 22nd November 1999 and a possession of the land was taken on 14th December 1999. The respondent has filed on record the affidavit of Suresh D. Mandhare, Special Land Acquisition Officer No.12 these facts. The respondent has also annexed a copy of the panchnama to the said affidavit. No rejoinder has been filed to the said affidavit.

3. In Ahmednagar, Municipal Council Vs. Shah Hyder Beig reported in AIR 2000 SC 671, the Supreme Court has held that no challenge to the acquisition proceedings can be entertained after the award has been published and the possession has been taken. In the present case as the award has been published and the possession has been taken the petition challenging the acquisition cannot be entertained.

4. Learned counsel for the petitioner submits that the actual possession of the land was never taken. He invites our attention to the order dated 23rd February 2000 passed by this Court before admission of the petition. The said order states that pending admission the petitioner’s possession of the lands in dispute will not be disturbed. It was not

pointed out to the Court that this order was passed that the possession had already been taken on 14th December 1999. The order therefore is of no consequence as the possession had already been taken long before the said order was passed.

5. For these reasons, there is no merit in the petition which is hereby dismissed. In the facts and circumstances of the case, there shall be no order as to costs.

(D.G. KARNIK, J) **(S.B. MHASE, J)**